

1 Remarks

2
3 Status of the Pending Claims

4 The status of the claims is as indicated above. No claims are being added,
5 cancelled, amended or withdrawn as of this response. Thus, claims 1-13 are
6 pending examination as of this Response. Claims 14-40 were withdrawn by way of a
7 previous communication.

8
9 Rejection of Claims under 35 U.S.C. § 102

10 Claims 1-4, 7 and 9-13 have been rejected under 35 U.S.C. § 102(e) as being
11 anticipated by U.S. Patent Application Publication No. 2004/0047801 ("Petillo").

12 The Applicants respectfully disagree that claims 1-4, 7 and 9-13 are
13 anticipated by Petillo.

14 As a starting point, the PTO and the Federal Circuit provide that §102
15 anticipation requires each and every element of the claimed invention to be
16 disclosed in a single prior art reference. (*In re Spada*, 911 F.2d 705, 15 USPQ2d
17 1655 (Fed. Cir. 1990).) The corollary of this rule is that the absence from a cited
18 §102 reference of any claimed element negates the anticipation. (*Kloster*
19 *Speedsteel AB, et al v. Crucible, Inc., et al*, 793 F.2d 1565, 230 USPQ 81 (Fed. Cir.
20 1986).) Furthermore, "[a]nticipation requires that all of the elements and limitations
21 of the claims are found within a single prior art reference." (*Scripps Clinic and*
22 *Research Found. v Genetech. Inc.*, 927 F.2d 1565, 1576, 18 U.S.P.Q.2d 1001, 1010
23 (Fed. Cir. 1991 (emphasis added).) Moreover, the PTO and the Federal Circuit
24 provide that §102 anticipation requires that there must be no difference between the
25 claimed invention and the reference disclosure. (*Scripps Clinic and Research Found.*
v. Genetech, Inc., id. (emphasis added).)

1 Accordingly, if the Applicants can demonstrate that any one element or
2 limitation in claims 1-4, 7 and 9-13 is not disclosed by Petillo, then the respective
3 claim(s) must be allowed.

4 In the following arguments, the Applicants will focus on independent claim 1,
5 as the Applicants believe that claim to be allowable over Petillo. Claims 2-4, 7 and
6 9-13 depend (directly or indirectly) from claim 1. It is axiomatic that any dependent
7 claim which depends from an allowable base claim is also allowable, and therefore
8 the Applicants do not believe it is necessary to present arguments in favor of each
9 and every dependent claim.

10
11 Claim 1

12 The Applicants contend that claim 1 (and rejected claims 2-4, 7 and 9-13
13 which depend there from) are not anticipated by Petillo. In regard to claim 1, that
14 claim includes the following recitations:

15
16 A fuel pellet package for use with a fuel activation device for a
17 fuel cell, the fuel pellet package comprising:

18 a packaging;

19 a hermetically sealed envelope supported within the packaging;

20 a plurality of fuel pellets, each including hydrogen releasable by
21 the fuel activation device, wherein the fuel pellets are arranged as a
22 stack within the hermetically sealed envelope; and

23 a first spring configured to exert a first force coupled to the fuel
24 pellets.

25 (Emphasis added.)

1 Petillo fails to provide a packaging as recited in combination with the other of
2 features and limitations of claim 1. Also, Petillo fails to provide a hermetically sealed
3 envelope supported within the packaging, as recited in combination with the other of
4 features and limitations of claim 1. What's more, Petillo fails to provide fuel pellets
5 arranged as a stack within the hermetically sealed envelope, as recited in
6 combination with the features and limitations of claim 1.

7 Rather, Petillo is directed to generating hydrogen by way of mixing hydrogen-
8 containing solids with an appropriate liquid agent, such as water (Abstract, et seq. of
9 Petillo). Thereafter, such generated (i.e., liberated) hydrogen is provided as fuel to a
10 fuel cell (id.). Further, Petillo provides for a "gun clip" (310) including a plurality of
11 fuel pellets (320-330) loaded by a spring (315) (Fig. 3; Paragraphs 0039 and 0040 of
12 Petillo). However, Petillo in no way provides or discusses packaging for fuel pellets -
13 or any other entity, for that matter. Furthermore, Petillo makes no mention of a
14 hermetically sealed envelope, or fuel pellets arranged as a stack within the
15 hermetically sealed envelope, as recited by claim 1. Simply put, Petillo is concerned
16 with the generation of hydrogen gas for provision to a fuel cell or cells. Petillo is
17 completely lacking any provisions equivalent to the particular packaging and
18 associated elements as recited by claim 1. Even if the "gun clip" 310 of Petillo were
19 considered to be "packaging", it is still clear that Petillo does not provide for a
20 hermetically sealed envelope supported within the packaging, as recited by claim 1.

21 In view of the foregoing, the Applicants assert that the 102(e) rejection of
22 claim 1 is unsupportable and must be withdrawn. Thus, the Applicants assert that
23 claim 1 is allowable. As rejected claims 2-4, 7 and 9-13 depend, directly or indirectly
24 from claim 1, it is axiomatic that they too are allowable at least by virtue of their
25 dependence from an allowable base claim, as well as for their own respectively
patentable features and limitations.

1 Rejection of Claims under 35 U.S.C. § 103

2 Claim 5 has been rejected under 35 U.S.C. § 103(a) as being unpatentable
3 over Petillo, in view of any one of: U.S. Patent No. 3,459,510 ("Litz"), U.S. Patent
4 Application Publication No. 2005/0036941 ("Bae"), or U.S. Patent No. 5,833,934
5 ("Adlhart"). Claim 6 has been rejected under 35 U.S.C. § 103(a) as being
6 unpatentable over Petillo, in view of U.S. Patent Application Publication No.
7 2002/0164521 ("Wessel"). Claim 8 has been rejected under 35 U.S.C. § 103(a) as
8 being unpatentable over Petillo, in view of U.S. Patent No. 6,889,869 ("Hallin").

9 As asserted above, the Applicants believe that independent claim 1 is
10 allowable. Claims 5, 6 and 8 respectively depend (directly or indirectly) from
11 allowable claim 1. Therefore, it is axiomatic that claims 5, 6 and 8 are also allowable
12 at least by virtue of their dependence from an allowable base claim. Thus, the
13 Applicants do not believe it necessary to argue in favor of each of claims 5, 6 and 8
14 in view of such axiomatic allowability.

15
16 Summary

17 The Applicants believe that this response constitutes a full and complete
18 response to the Office action. Therefore, the Applicants respectfully request
19 reconsideration of claim 1-13, in favor of timely allowance.

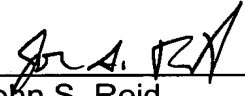
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1 The Examiner is respectfully requested to contact the below-signed
2 representative if the Examiner believes this will facilitate prosecution toward
3 allowance of the claims.

4
5 Respectfully submitted,

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